

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:10-CV-182

CHASTITY DAVIDSON, in her)
individual capacity and as Administratix)
of the Estate of ANTHONY DEWAYNE)
DAVIDSON,)
)
Plaintiff,)
)
v.)
)
CITY OF STATESVILLE;)
OFFICER DAVID WAYNE LOWERY,)
in his individual and official capacity;)
OFFICER WILLIAM HOWARD)
GOFORTH, in his individual and official)
capacity; IREDELL COUNTY)
SHERIFF PHILLIP H. REDMOND,)
in his individual and official capacity;)
“JOHN DOE SURETY COMPANY”;)
OFFICER JASON PATRICK CLOER,)
in his individual and official capacity;)
CORPORAL CHANCE ALLEN)
WILLIAMS, in his individual and)
official capacity; and OFFICER MARC)
ANTHONY CUDDY CARMONA,)
in his individual and official capacity,)
)
Defendants.)
)

Exhibit K

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:10-cv-00182-RLV-DSC

CHASTITY DAVIDSON, in her individual)
capacity and as Administratrix of the Estate of)
ANTHONY DEWAYNE DAVIDSON,)
)
Plaintiff,)
)
v.)
)
CITY OF STATESVILLE;)
OFFICER DAVID WAYNE LOWERY,)
in his individual and official capacity;)
OFFICER WILLIAM HOWARD GOFORTH,)
in his individual and official capacity;)
IREDELL COUNTY SHERIFF)
PHILLIP H. REDMOND, in his individual)
and official capacity;)
“JOHN DOE SURETY COMPANY”;)
OFFICER JASON PATRICK CLOER, in his)
individual and official capacity;)
CORPORAL CHANCE ALLEN WILLIAMS,)
in his individual and official capacity; and)
OFFICER MARC ANTHONY CUDDY)
CARMONA, in his individual and official capacity,)
)
Defendants.)
)

**AFFIDAVIT OF
MATTHEW A. LOJKO JR.**

COMES NOW the Affiant, Matthew A. Lojko Jr., having first been duly sworn, and says:

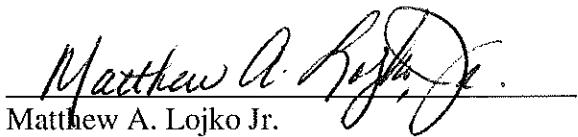
1. My name is Matthew A. Lojko Jr. I currently serve as a contract Senior Consultant for Cannady Associates, Greensboro, North Carolina. In this role, I have assisted local governments in the recruitment, assessment, and selection of management level public safety personnel. My Expert Report in this matter is attached hereto as Exhibit 1, which accurately reflects my education, training, and experience.

2. In this matter, I have reviewed the items and materials as listed in my Expert Report attached hereto as Exhibit 1.

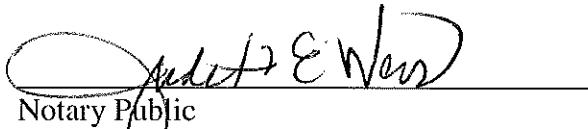
3. After review of the items and materials as listed in my Expert Report, I used my education, training, and experience to form the opinion contained therein.

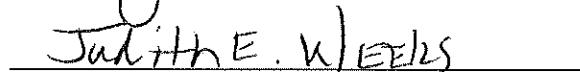
FURTHER THE AFFIANT SAYETH NOT.

This the 30 day of November, 2011.


Matthew A. Lojko Jr.

Sworn to and subscribed before me this
the 30th day of November, 2011.


Notary Public


Printed Name of Notary

My Commission Expires: 10/8/2014

JUDITH E. WEEKS
NOTARY PUBLIC
GUILFORD COUNTY, NC
My Commission Expires 10/8/2016

STATE OF NORTH CAROLINA
COUNTY OF IREDELL

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
10-CVS-02033

CHASTITY DAVIDSON, in her
Individual capacity and as Administratrix of
The Estate of ANTHONY DEWAYNE
DAVIDSON,

Plaintiff,

vs.

**EXPERT REPORT OF
MATTHEW A. LOJKO, JR.**

CITY OF STATESVILLE;
OFFICER DAVID WAYNE LOWERY,
in his official and individual capacity;
OFFICER WILLIAM HOWARD GOFORTH,
in his official and individual capacity;
IREDELL COUNTY SHERIFF PHILLIP
H. REDMOND in his official capacity;
“JOHN DOE SURETY COMPANY”;
OFFICER JASON PATRICK CLOER,
in his official and individual capacity;
CORPORAL CHANCE ALLEN
WILLIAMS, in his official and individual
Capacity; and OFFICER MARC ANTHONY
CUDDY CARMONA, in his official and
Individual capacity,

Defendants,

1. My name is Matthew A. Lojko, Jr. This expert report describes the information and materials I have reviewed in the above-mentioned case and the opinions I have formed as a result of the review. I am also incorporating a summary of my qualifications for expressing these opinions.
2. Since August 2006, I have served as a contract Senior Consultant for Cannady Associates, in Greensboro, North Carolina. In this role, I have assisted local governments in the recruitment, assessment, and selection of management level public safety personnel.
3. From 2000 to 2005, I served with the Greensboro, North Carolina Police Department in a variety of positions including, patrol officer, Budget & Planning Officer, Budget & Planning Supervisor, Accreditation Manager, Executive Officer to the Chief of Police, Commanding Officer of the Resource Management Division, and Commanding Officer of the Professional Standards Division.
4. From 1997 to 1999, I served as Chief of Police of the Reidsville, North Carolina Police Department.



5. From 1995 to 1997, I served as Chief of Police for the Smithfield, North Carolina Police Department.
6. From 1978 to 1995, I served with the Greensboro, North Carolina Police Department in variety of positions including, patrol officer, Staff Inspections Officer, Budget and Planning Supervisor, Internal Affairs Supervisor, Executive Officer for Patrol Division IV, and Executive Officer to the Chief of Police.
7. I was a former certified general instructor through the North Carolina Criminal Justice Education and Training Standards Commission and have taught numerous in-service courses as well as taught in recruit academies from 1986 until my retirement in 2005. I have also conducted training seminars across the state through the North Carolina Internal Affairs Investigators Association and the Management Development Program at the North Carolina Justice Academy.
8. The following are organizations in which I served:
 - International Association of Chiefs of Police, (1995-1999, 2003-2005)
 - North Carolina Association of Chiefs of Police, (1995-1999), District Representative, (1998)
 - North Carolina Internal Affairs Investigators Association, (1990-1994), President, (1991-1993).
 - North Carolina Police Executives Association, (1987 to 1999, 2001 to 2005), Secretary/Treasurer, (1998 to 1999), Board of Directors, (2002 to 2005), Awarded Life Membership in 2006
 - FBI National Academy Associates, North Carolina Chapter, (1996 to 2005), District Representative, (2002 to 2005)
 - North Carolina Criminal Justice Education Training and Standards Commission, (1998 to 1999, 2004 to 2005)
 - North Carolina Public Officers and Employees Liability Insurance Commission, (2002 to 2005)
9. I earned an Associate of Science Degree from Wingate College in 1973, a Bachelor of Science Degree in Parks and Recreation Administration from North Carolina State University in 1975, and a Master of Public Affairs from the University of North Carolina at Greensboro in 1990. I am also a graduate of the 66th Session of the School of Police Staff and Command at Northwestern University and the 187th Session of the FBI National Academy, Quantico, VA.
10. At the request of counsel for the Defendant City of Statesville in the above-mentioned case, I was asked to review this case and render an opinion as to the level of training Statesville defendants were given in the use of the TASER® and whether the use of the TASER® was in accordance with Statesville Police Department policies and North Carolina laws.
11. In preparing my opinion, I reviewed the following documents:
 - Statesville Police Department's Internal Affairs Investigation of the In Custody Death of Anthony Davidson Involving D. W. Lowery, W. Goforth, M. Caroma, and B. Mayberry Initiated by the Statesville Police Department, #7-2008.
 - Summary of SBI Investigation, Case: Anthony Davidson v. City of Statesville, File Number: 1000-268, SBI File Number: 2008-2137.

- Statesville Police Department, Operating Procedures #04, Arrest, Effective Date: July 16, 2004.
- Statesville Police Department, Operating Procedures #24, Use of Force, Effective Date: February 9, 2006.
- Taser® X26 Certification Test taken by David Lowery, Statesville Police Department, dated May 25, 2004.
- Taser® X26 User Certification Test taken by David Lowery, Statesville Police Department, dated February 25, 2008.
- Taser® X26 User Certification Test taken by Marc-Anthony Carmona, Statesville Police Department, dated February 18, 2008.

12. David Wayne Lowery was originally employed by the City of Statesville as a police officer in July, 2001. He served in that capacity until he resigned in January, 2006 to take a police officer position with the Town of Kernersville. Mr. Lowery returned to the Statesville Police Department in May, 2006.

13. Mr. Lowery graduated from the Basic Law Enforcement Training (BLET) Program at Mitchell Community College on April 23, 2001. This course consisted of 608 contact hours, comprised of 35 topical areas including: arrest, search and seizure; subject control and arrest techniques; and dealing with individuals with mental illness and mental retardation. Following BLET, Mr. Lowery successfully passed the comprehensive state examination.

14. Mr. Lowery was awarded the Intermediate/General Certificate on August 28, 2006 by the North Carolina Criminal Justice Education and Training Standards Commission.

15. Mr. Lowery participated in a six (6) hour Taser® X26 training program and successfully passed the Taser® X26 Certification Test given by the Statesville Police Department, dated May 25, 2004 and again on February 25, 2008. These training programs also involved a review of the Statesville Police Department's Use of Force Policy.

16. William Howard Goforth was employed by the City of Statesville as a police officer in June, 2008.

17. Mr. Goforth graduated from the Basic Law Enforcement Training (BLET) Program at Mitchell Community College on May 30, 2008. This course consisted of 620 contact hours, comprised of 35 topical areas including: arrest, search and seizure; subject control and arrest techniques; and dealing with individuals with mental illness and mental retardation. Following BLET, Mr. Goforth successfully passed the comprehensive state examination.

18. Mr. Goforth was awarded Probationary Certification on July 2, 2008 by the North Carolina Criminal Justice Education and Training Standards Commission.

19. Mr. Marc Anthony Cuddy Carmona was employed by the Henderson, NC Police Department as a police officer from December, 2004 until he was hired by the Statesville Police Department in June, 2007.

20. Mr. Carmona graduated from the Basic Law Enforcement Training (BLET) Program at the North Carolina Justice Academy as part of the North Carolina Police Corps Program. This course consisted of 1293 contact hours, comprised in the BLET portion were 35 topical areas including: arrest, search and seizure; subject control and arrest techniques; and dealing with individuals with mental illness and mental retardation. Following BLET, Mr. Carmona successfully passed the comprehensive state examination.

21. Mr. Carmona was awarded the General Certification on December 20, 2005 by the North Carolina Criminal Justice Education and Training Standards Commission.
22. Mr. Carmona participated in a six (6) hour Taser® X26 training program and successfully passed the Taser® X26 Certification Test given by the Statesville Police Department, dated February 18, 2008. This training included a review of the Statesville Police Department Use of Force Policy.
23. Based upon my review of the information provided in the aforementioned files, it is my opinion that the level of training provided to David Wayne Lowery, William Howard Goforth, and Marc Anthony Cuddy Carmona was satisfactory and met all appropriate standards established by the North Carolina Criminal Justice Education and Training Standards Commission as it pertains to the Basic Law Enforcement Training Program and in-service training pertaining to arrest procedures and the use of force.
24. The information provided in the Statesville Police Department's Internal Affairs investigation and the investigative report of the North Carolina State Bureau of Investigation (NCSBI), coupled with my review of the rules and requirements for law enforcement training and policies and practices in North Carolina, affords adequate information for me to render the following opinions:
 - a. David Wayne Lowery, William Howard Goforth, and Marc Anthony Cuddy Carmona were sufficiently trained in arrest procedures and the use of force.
 - b. David Wayne Lowery and Marc Anthony Cuddy Carmona were sufficiently trained in the use of the Taser® X26.
 - c. Statesville Police Department, Operating Procedures #04, Arrest, Effective Date: July 16, 2004 complies with statutory requirements and generally accepted law enforcement practices and procedures.
 - d. Statesville Police Department, Operating Procedures #24, Use of Force, Effective Date: February 9, 2006 complies with statutory requirements and generally accepted law enforcement practices and procedures.
 - e. David Wayne Lowery, William Howard Goforth, and Marc Anthony Cuddy Carmona acted in accordance with Statesville Police Department, Operating Procedures #04, Arrest and Statesville Police Department, Operating Procedures #24, Use of Force in the arrest and subsequent use of force involving Anthony Dewayne Davidson.
25. The opinions stated in this report are based upon the information I have been provided as to this date. I understand that I may be asked to review additional information about this incident that may be relevant to the opinions stated in this report. Should additional information be provided that would necessitate a revision of this report, I will supplement my findings and opinion at that time.

My rate of compensation for reviewing this case and rendering these opinions is \$150.00 per hour.

Matthew A. Lojko, Jr.
Greensboro, North Carolina

April 4, 2011